

1 ORRICK, HERRINGTON & SUTCLIFFE LLP
KAREN G. JOHNSON-MCKEYAN (SBN 121570)
2 kjohnson-mckewan@orrick.com
ANNETTE L. HURST (SBN 148738)
3 ahurst@orrick.com
GABRIEL M. RAMSEY (SBN 209218)
4 gramsey@orrick.com
405 Howard Street, San Francisco, CA 94105
5 Tel: 1.415.773.5700 / Fax: 1.415.773.5759
PETER A. BICKS (*pro hac vice*)
6 pbicks@orrick.com
LISA T. SIMPSON (*pro hac vice*)
7 lsimpson@orrick.com
51 West 52nd Street, New York, NY 10019
8 Tel: 1.212.506.5000 / Fax: 1.212.506.5151

9 BOIES, SCHILLER & FLEXNER LLP
DAVID BOIES (*pro hac vice*)
10 dboies@bsfllp.com
333 Main Street, Armonk, NY 10504
11 Tel: 1.914.749.8200 / Fax: 1.914.749.8300
STEVEN C. HOLTZMAN (SBN 144177)
12 sholtzman@bsfllp.com
1999 Harrison St., Ste. 900, Oakland, CA 94612
13 Tel: 1.510.874.1000 / Fax: 1.510.874.1460

14 ORACLE CORPORATION
DORIAN DALEY (SBN 129049)
15 dorian.daley@oracle.com
DEBORAH K. MILLER (SBN 95527)
16 deborah.miller@oracle.com
MATTHEW M. SARBORARIA (SBN 211600)
17 matthew.sarboraria@oracle.com
RUCHIKA AGRAWAL (SBN 246058)
18 ruchika.agrawal@oracle.com
500 Oracle Parkway,
19 Redwood City, CA 94065
20 Tel: 650.506.5200 / Fax: 650.506.7117

Attorneys for Plaintiff
21 ORACLE AMERICA, INC.

22 UNITED STATES DISTRICT COURT
23 NORTHERN DISTRICT OF CALIFORNIA
24 SAN FRANCISCO DIVISION

24 ORACLE AMERICA, INC.,
25 Plaintiff,
26 v.
27 GOOGLE INC.,
28 Defendant.

Case No. CV 10-03561 WHA

**ADMINISTRATIVE MOTION TO FILE
UNDER SEAL RE: ORACLE'S RULE 59
MOTION FOR A NEW TRIAL**

Dept.: Courtroom 8, 19th Floor
Judge: Honorable William H. Alsup

Plaintiff Oracle America, Inc. (“Oracle”) hereby moves to file portions of its Rule 59 Motion for a New Trial and supporting materials under seal pursuant to Civil Local Rules 7-11 and 79-5.

The Order Approving Stipulated Protective Order Subject to Stated Conditions entered in this case, ECF No. 68, states that when material has been designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEY’S EYES ONLY,” a party may not file it in the public record, but must seek to file it under seal pursuant to Civil Local Rule 79-5. Stipulated Protective Order § 14.4, ECF No. 66.

Google Inc. (“Google”) has designated material discussed in Oracle’s Rule 59 motion “CONFIDENTIAL” and “HIGHLY CONFIDENTIAL – ATTORNEY’S EYES ONLY” pursuant to the Protective Order. Therefore, Oracle moves to seal the following Google-designated information:

Document	Text to be sealed
Oracle’s Rule 59 Motion for A New Trial	Text found at page 3:20-26; 4:26-27; 5:17-28; 6:1-6; 6:11-13; 6:19-20; 6:21-26; 7:1-8; 10:19-20; 10:28-11:1; 11:25-27
Matthew Bush Decl., Ex. G	Entire document
Matthew Bush Decl., Ex. L	Text at page 9:22-25; 25:1-26
Matthew Bush Decl., Ex. M	Entire document
Matthew Bush Decl., Ex. N	Entire document
Matthew Bush Decl., Ex. O	Entire document
Matthew Bush Decl., Ex. P	Entire document
Matthew Bush Decl., Ex. S	Entire document
Matthew Bush Decl., Ex. V	Entire document
Matthew Bush Decl., Ex. Y	Entire document
Matthew Bush Decl., Ex. AA	Entire document
Matthew Bush Decl., Ex. BB	Entire document

Matthew Bush Decl., Ex. FF	Entire document
Matthew Bush Decl., Ex. KK	Entire document
Matthew Bush Decl., Ex. PP	Entire document
Matthew Bush Decl., TX 2449	Entire document
Matthew Bush Decl., TX 4104	Entire document

Oracle states no position as to whether disclosure of these materials would cause harm to Google or any third parties.

Oracle has also designated material discussed in Oracle's Rule 59 motion as "CONFIDENTIAL" and "HIGHLY CONFIDENTIAL – ATTORNEY'S EYES ONLY." Oracle moves for a very limited, narrow sealing order permitting Oracle to file under seal the following documents reflecting confidential financial data and information reflecting business discussions and negotiations with third parties:

Document	Text to be sealed
Oracle's Rule 59 Motion for A New Trial	Text reflecting third party names on pages 11, 12, 13, and 25
Matthew Bush Decl., Ex. W	Text revealing the identity of third parties on pages 87, 88, 98, 102, and 103.
Matthew Bush Decl., Ex. X	Text revealing the identity of third parties on pages 45, 46, 47, 48, 49, 54, 55, 56, 57, and 107
Matthew Bush Decl., Ex. Z	Text revealing the identity of third parties on page 214
Matthew Bush Decl., Ex. CC	Text revealing the identity of third parties on pages 147, 148, 156, and 242
Matthew Bush Decl., Ex. CC	Text revealing the identity of third parties on pages 147, 148, 156, and 242
Matthew Bush Decl., Ex. DD	Text revealing the identity of third parties on page 292
Matthew Bush Decl., Ex. MM	Text revealing the identity of third parties on pages 41, 42, 70, 71, 72, 73, 74, 75, 77, 80, 83, 84, 85, 91, 93, 94, 95, and 96
Matthew Bush Decl., Ex. NN	Text revealing the identity of third parties on pages 173, 174, and 175
Matthew Bush Decl., Ex. QQ	Text revealing the identity of third parties on pages 81, 82, 83, 84, 102, 103, 108, 109, 110, 111, 127, 128, and 129

1	Mathew Bush Decl., Ex LL	Text reflecting third party business discussions
2	Mathew Bush Decl., TX 5059	Text reflecting third party business discussions
3	Mathew Bush Decl., TX 5060	Text reflecting third party business discussions
4	Mathew Bush Decl., TX 5063	Text reflecting third party business discussions
5	Mathew Bush Decl., TX 5064	Text reflecting third party business discussions
6	Mathew Bush Decl., TX 5627	Text reflecting third party business discussions
7	Mathew Bush Decl., TX 5628	Text reflecting third party business discussions
8	Mathew Bush Decl., TX 5632	Text reflecting third party business discussions
9	Mathew Bush Decl., TX 5634	Text reflecting third party business discussions
10	Mathew Bush Decl., TX 5635	Text reflecting third party business discussions
11	Mathew Bush Decl., TX 5637	Text reflecting third party business discussions
12	Mathew Bush Decl., TX 5642	Text reflecting third party business discussions
13	Mathew Bush Decl., TX 5840	Text reflecting third party business discussions
14	Mathew Bush Decl., TX 5844	Text reflecting third party business discussions
15	Mathew Bush Decl., TX 5850	Text reflecting third party business discussions
16	Mathew Bush Decl., TX 5886	Text reflecting third party business discussions
17	Mathew Bush Decl., TX 5887	Entire document
18	Mathew Bush Decl., TX 5893	Text reflecting third party business discussions
19	Mathew Bush Decl., TX 5894	Text reflecting third party business discussions
20	Mathew Bush Decl., TX 5961	Entire document
21	Mathew Bush Decl., TX 6431	Entire document
22	Mathew Bush Decl., TX 6470	Entire document
23	Mathew Bush Decl., TX 6905	Entire document
24	Mathew Bush Decl., 9179	Text reflecting third party business discussions
25		
26		
27		
28		

As set forth in the Declaration of Andrew Temkin, the limited information Oracle seeks to seal is competitively sensitive information that Oracle maintains in confidence. Unnecessary public disclosure of Oracle's confidential business discussions with third parties could cause Oracle commercial injury and could harm Oracle's business relationships. Accordingly, Oracle respectfully submits that the risk of competitive injury to Oracle justifies the narrowly tailored relief requested. *See, e.g., Kamakana v. City & County of Honolulu*, 447 F.3d 1172, 1181 (9th Cir. 2006) (setting standard); *Finjan, Inc. v. Proofpoint, Inc.*, 2016 U.S. Dist. LEXIS 15825, at *5 (N.D. Cal. Feb. 9, 2016) (granting motion to seal confidential revenue data) (citing *inter alia* *Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 598, 98 S. Ct. 1306, 55 L. Ed. 2d 570 (1978) (holding access to court records has been denied when it includes "sources of business information that might harm a litigant's competitive standing.")).

Dated: July 6, 2016

KAREN G. JOHNSON-MCKEWAN
ANNETTE L. HURST
GABRIEL M. RAMSEY
PETER A. BICKS
LISA T. SIMPSON
Orrick, Herrington & Sutcliffe LLP

By: /s/ Andrew D. Silverman

Attorneys for Plaintiff
ORACLE AMERICA, INC.